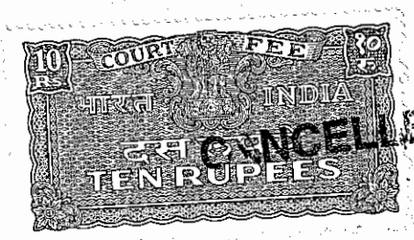

Single Bench (1)

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P.No.1259 Of 2005

BETWEEN

1. Brijmohan Dua, aged about 50 years, s/o Sita ram Dua, r/o Gondpara, Post office: Golebazar, Bilaspur, Tehsil & District: Bilaspur(C.G.)

2. Smt. Chandrakali Bai, aged about 45 years, w/o Prakash, r/o Jahrabhata, Tehsil & District: Bilaspur(C.G.)

PETITIONERS

AND

Indian Church Council of the Disciple of Christ Society, through its Executive Secretary, Address: Civil Lane, Jahrabhata, Bilaspur (C.G.)

RESPONDENT

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

P.R. No. 752/05
Presented by Shri Sandeep Singh
dated 23/11/05

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(33)

आदेश पत्रक

मामला क्रमांक WP 1259/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05-04-2005

Shri Shailendra Soni, counsel for the petitioners.

Heard.

2. The instant petition is preferred against the order dated 1-4-2004 passed by the Third Civil Judge, Class-I, Bilaspur, in civil suit No.12-A/2002 whereby the application under Section 151 of the Code of Civil Procedure for adjournment of cross-examination of witness was rejected by the Court.

3. Briefly stated the facts of the case are that the suit in which this order has been passed was instituted about twenty years back. The matter remained pending on one count or other. It is only after coming into force the amendments made in the Code of Civil Procedure the hearing could be expedited. The affidavits were filed. Copies of those affidavits were supplied. The witnesses were present for cross-examination on the date

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(34)

आदेश पत्रक

WP 1259/05

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

fixed i.e. 1-4-2004. On that day, in the first half the petitioners filed an application under Order 13 Rule 10 of the Code of Civil Procedure before the Court and the same was decided.

4. The matter was heard in the first half and at about 1.15 p.m. the Court below has adjourned the matter for second half (2.30 p.m.) and even permitted the counsel to go through the record and get the file also.

5. The application was filed under Order 1 Rule 3(1) and Rule 10 Read with Section 151 of the Code of Civil Procedure for joining State of Chhattisgarh and Meera Devi, W/o Indal, Age 50 years, Resident of Jarhabhata, Bilaspur, as necessary parties. The Court heard the arguments on this application and holding that the plaintiff is dominus litis rejected the same.

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(35)

आदेश पत्रक

मामला क्रमांक WP 1259/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

6. After deciding all these applications, the Court granted an opportunity for cross-examination, the counsel shows his inability for cross-examination. Learned counsel for the petitioners contended that opportunity should have been granted.

7. Adjournment cannot be granted merely by asking. The matters which are pending since long and more than 10 to 20 years have passed, they are to be decided on priority basis and this High Court also from time to time issued directions to the Presiding Officers to take care of such matters.

8. Order XVII Rule 1 of the Code of Civil Procedure is relevant and quoted below :

> "1. **Court may grant time and adjourn hearing.**—(1) The Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the

[पीछे देखिये

(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 1259/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

hearing of the suit for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the suits."

9. The Court below has amply described the events which have taken place in the proceedings on that date i.e. 1-4-2004.

10. A bare perusal of the order, it reveals that the learned defence counsel prayed for adjournment for adducing the evidence. Opportunity has been granted.

11. Having considered the total facts and circumstances of the case and the material available on record, in the opinion of this Court, no case has been made out for exercise of jurisdiction under Article 227 of the Constitution of India. However, it is open to the petitioners to raise the grounds in an appeal in case such an eventuality arises.

—12/2000—50,000.

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 1259/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Gowri	12. With the aforesaid observations the petition stands disposed of. Sd/- Fakhruddin Judge	